

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EILEEN TEATER	:	CIVIL ACTION
	:	
v.	:	NO. 05-5779
	:	
DSM ENGINEERING PLASTICS	:	

MEMORANDUM AND ORDER

Juan R. Sánchez, J

May 11, 2006

DSM Engineering Plastics asks this court to grant summary judgment against Eileen Teater in an action brought by Teater after DSM withheld a portion of her joint survivor pension payment to recoup an overpayment attributed to a clerical error by a DSM employee. Teater contends the pension plan provision permitting a setoff to correct for overpayments does not extend to mistakes by a DSM employee. I disagree and will grant DSM's Motion for Summary Judgment.

FACTS

DSM is the Plan Sponsor and Plan Administrator for the ERISA-qualified DSM Engineering Plastics, Inc. Pension Plan. Eileen Teater is the widow of Plan participant Marvin Teater. In or about February, 1995, Mr. Teater began receiving pension payments retroactively to September, 1994, with a monthly gross pension payment of \$1,614.74. Mr. Teater died in or about April, 2001. Teater began receiving a joint survivor pension payment from the Plan, with a monthly gross pension payment of \$885.76.

On or about August 16, 2001, representatives of the Plan contacted Teater and alerted her to an overpayment issue involving the prior pension payments. A clerical error by a DSM employee caused Mr. Teater to receive pension payments in excess of his entitlement under the Plan. The overpayments began with the initial pension payment and continued up to Mr. Teater's death in

April, 2001. DSM notified Teater the total overpayment was \$58,318.40 and that a monthly setoff of \$206.80 would occur over a 282-month payment period to recoup the overpayment. As of the date of Plaintiff's Complaint the total amount of setoff was \$8,065.20.

DISCUSSION

A motion for summary judgment will only be granted if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). A district court must consider the evidence presented by the moving party and draw all reasonable inferences in favor of the non-moving party. *Med. Protective Co. v. Watkins*, 198 F.3d 100, 103 (3d Cir. 1999). Both Teater and DSM agree as to the essential facts – Teater's husband received \$58,318.40 in total overpayment because of a clerical error by a DSM employee. The only dispute is whether the language of the Plan permits DSM to recoup the overpayment from Teater's joint survivorship pension payments in light of DSM's own mistake. I find it does.

The pension plan at issue in this case is regulated by the Employment Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §§ 1001 *et seq.* A federal common law of rights and obligations has been developed to resolve disputes arising from ERISA-regulated plans. *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 56 (1987). ERISA claims seeking to recover benefits of the kind sought in this action most closely resemble contract actions, and the validity of those claims will ordinarily rest upon the Court's interpretation of the relevant plan provisions. In determining the actual terms of an ERISA plan, general principles of contract interpretation control. *Henglein v. Colt Indus. Operating Corp.*, 260 F.3d 201, 213 n.8 (3d Cir. 2001). The Court examines the plan as a whole, *Kemmerer v. ICI Ams.*, 70 F.3d 281, 288 (3d Cir. 1995), and gives terms their “plain meaning, which is a meaning that comports with the interpretation given by the average person,” *Int'l Union, United Auto., Aero. & Agric. Implement Workers v. Skinner Engine Co.*, 15 F. Supp. 2d

773, 780 (W.D. Pa. 1998), *aff'd*, 188 F.3d 130 (3d Cir. 1999) (citing *Wickman v. Northwestern Nat'l Ins. Co.*, 908 F.2d 1077, 1084 (1st Cir.), *cert. denied*, 498 U.S. 1013 (1990)). A term is ambiguous if it is reasonably susceptible to different constructions. *Cury v. Colonial Life Ins. Co.*, 737 F. Supp. 847, 853 (E.D. Pa. 1990). If only one reasonable interpretation exists, then there can be no ambiguity and the Court can construe the document as a matter of law. *Kemmerer*, 70 F.3d at 288-89.

Section 6.12 of the Plan, governing mistakes, permits the Plan to setoff pension payments in order to recoup prior overpayments. Section 6.12 states:

If a mistake is made in the calculation of a Pension benefit under this Plan (whether attributable to the Participant, Beneficiary, Eligible Spouse, or any other person), the Pension shall be adjusted to correct such mistake, and the amount of any overpayment (or underpayment) theretofore made to or on behalf of the Participant, Beneficiary or Eligible Spouse shall be deducted from (or added to) the next succeeding Pension payments as the Committee shall direct, but no interest shall be paid on the amount of any underpayment.

(Def.'s Mot. Summ. J. Ex. B.) The parties do not dispute DSM's right to recoup an overpayment due to a mistake, but disagree as to whose mistake can justify a setoff. Specifically, DSM interprets Section 6.12 as attribution-free because "any other person" in the initial parenthetical language extends the mistake to anyone including DSM and DSM employees. To the contrary, Teater contends the provision is fault-based because the parenthetical identifies specific persons – Participant, Beneficiary and Eligible Spouse – to whom to attribute the mistake, all of which are plan-defined terms. The plan defines DSM as a Corporation, and, according to Teater, had the plan intended to attribute mistakes to DSM, the term Corporation would have been included along with the other plan-defined terms. Because Corporation is absent, Teater argues neither DSM nor its employees qualify as "any other person." I find Teater's argument without merit.

The relevant provision is not reasonably susceptible to different constructions. The phrase “any other person” is broad enough to cover DSM and DSM’s employee. It is true the plan specifically defines DSM as Corporation and the mistake provision does explicitly identify Participant, Beneficiary and Eligible Spouse, which are all defined terms. Nevertheless, an average person would interpret “any other person” to include any person or entity other than those specified and such construction would cover the DSM employee who made the clerical error. The fact DSM is a corporation is irrelevant. ERISA defines a person to include a corporation, and a corporation necessarily acts through its employees who are individuals within the meaning of person. 29 U.S.C. § 1002(9).¹

Contrary to plaintiff’s contention, this Court cannot read language into an already unambiguous provision. Nor can this Court interpret the mistake provision to lead to an absurd result. The provision permits the Plan to correct not only for overpayments but also underpayments. If I interpret “any other person” to exclude DSM, then DSM could escape from its clear obligation to pay full benefits simply because DSM or its employee caused an error resulting in an underpayment. Had DSM denied Mr. Teater his full benefits, Plaintiff’s assertion would deprive him from receiving the additional funds in succeeding pension payments. Only one reasonable interpretation of “any other person” exists that would avoid such a result and be consistent with the overall objectives of ERISA to protect participants’ retirement benefits. *See Tucker v. Gen. Motors Retirement Prog.*, 949 F. Supp. 47, 52, 54 (D. Mass. 1996) (granting summary judgment motion to

¹ ERISA defines a person as “an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or employee organization.” 29 U.S.C. § 1002(9).

plan related to setoff of pension payments to recoup overpayments).

Because there is no ambiguity in the mistake provision, I can construe the plan as a matter of law. The plan permits DSM to use a setoff to recoup overpayments caused by its own mistake because DSM and its employees qualify as “any other person.” Mr. Teater received an excess of \$58,318.40 in pension payments, and DSM has the right to recover that amount from Teater’s succeeding pension payments.

An appropriate Order follows.

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DSM ENGINEERING PLASTICS	:	

ORDER

AND NOW this 11th day of May, 2006, Defendant's Motion for Summary Judgment (Document 10) is GRANTED. Judgment is entered in favor of the Defendant and against Plaintiff. The Clerk of the Court is directed to close the above captioned case.

BY THE COURT:

/s/ Juan R. Sánchez, J.
Juan R. Sánchez, J.